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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,476	07/24/2003	Mark Ruttenberg	46514-56536	1475
21888 7590 08/17/2007 THOMPSON COBURN, LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101			EXAMINER BODDIE, WILLIAM	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,476	RUTTENBERG, MARK	
	Examiner	Art Unit	
	William L. Boddie	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-10,13-21,24-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 7-10, 13-21, 24-26 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In an amendment dated, January 5th, 2007, the Applicant amended claims 1 and 21. Currently claims, 1-2, 7-10, 13-21, 24-26 and 28 are pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 22nd, 2007 has been entered.

Response to Arguments

3. On pages 9-10 of the Remarks, the Applicant argues that Mankins teaches away from a triangular version of a non-mobile unit. Specifically the Applicant points to Mankins discussion of non-mobile display units, which describe "a display on each of two opposite facing sides."
4. The Examiner respectfully disagrees. This example of a non-mobile unit is just that an example. Mankins never states that a display on each of two opposite facing sides is the only suitable non-mobile unit. Furthermore, Mankins in the same sentence expressly proposes there being more than two displays in the non-mobile unit. As such Mankins is not seen as teaching away from a polygonal display in any way.

5. On pages 11-13 of the Remarks, the Applicant traverses the rejection of claims 17-18, 20 and 26. Specifically, the Applicant again argues that Goldman teaches away from the invention by requiring that the displays are all facing in one direction.

The Examiner respectfully disagrees. First, Goldman is not required to satisfy all the claim limitations of the each claim. If Goldman had anticipated each limitation there would be no need for the Mankins and Pettus references as shown below. The only teaching for which Goldman is being used is the limitation of a backing member.

Furthermore Goldman's disclosure of a modular display, "displaying one or more flat multi-sided signage panels in a desired orientation" is not seen as prohibitive of having multiple panels facing in generally different directions. Specifically, the broadest reasonable interpretation of orientation allows for the panels to face generally different directions.

6. On pages 14-15 of the Remarks the Applicant traverses the rejection of claim 19. The Applicant again argues that Gebka teaches away from using rigid PVC.

The Examiner respectfully disagrees. While Gebka does *include* "flexible" PVC in the sign channel, the bulk of the channel is still constructed out of a rigid PVC (col. 1, lines 49-52; col. 2, lines 27-31). As the current claim limitation only requires that the polymeric material include a moderately expanded, rigid PVC material and does not limit the exterior shell to one material, Gebka is seen as satisfying the limitations requiring a moderately expanded, rigid PVC material.

Those arguments not addressed above are moot in view of the new grounds of rejection seen below.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2, 7-10, 13-16, 21 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,850,209) in view of Pogue (US 3,167,874).

With respect to claim 1, Mankins discloses, an advertising display comprising: a plurality of display panels including at least one first display panel (1036 in fig. 42), at least one second display panel (second exploded side display in fig. 42; col. 55, lines 39-42) and at least one third display panel (back panel 144 in fig. 42), the plurality of display panels cooperatively forming a polygonal display (triangular in fig. 43), wherein the plurality of display panels are operatively connected to a support frame (1026, 1035, 1032 etc. in fig. 42), the support frame being operatively connected to a single mount (1408 in figs. 67-68; one piece roof protector, qualifies as a single mount), wherein the mount is adapted and configured to operatively connect the polygonal display to a support mechanism (vehicle in fig. 67; col. 55, lines 29-36) in a manner such that the polygon display can be supported by and from the support mechanism solely via the single mount (clear from figs. 67-68); wherein the polygonal display is located within a retail outlet in an elevated position (col. 36, lines 9-27); with at least one of the plurality of display panels having an electronic panel display exposed for display of electronic

Art Unit: 2629

visual advertising information thereon (col. 16, lines 51-57) and any remaining display panels of the plurality of display panels can display visual advertising information (col. 59, lines 23-27), wherein the at least one first display panel, the at least one second display panel and the at least one third display panel are facing generally in different directions (clear from fig. 43); and a source of electronic advertising information (col. 16, lines 58-67) operably associated with the at least one electronic display panel for displaying the electronic visual advertising information on the at least one electronic panel display.

Mankins further proposes non-mobile versions of the device (fig. 22; col. 28, lines 46-56).

Mankins does not expressly disclose wherein the single mount is located within, and configured to operatively connect the polygonal display to a center pole such that the polygon display can be supported by and from the center pole.

Furthermore Mankins does not expressly disclose that the polygonal display is located within a retail establishment at a point-of-sale or a point-of-purchase.

Pogue discloses, a polygon display advertising module (fig. 1), wherein a single mount (14, 15 in fig. 2) is adapted and configured to operatively connect the polygonal display to a center pole (10 in fig. 1-4) such that the polygon display can be supported by and from the center pole (clear from figs. 1-4) solely via the single mount; wherein the polygonal display is located in an elevated position (clear from figs. 1-4; also note col. 2, lines 61-68).

Pogue and Mankins are analogous art because they are both from the same field of endeavor namely, polygonal advertising displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the vehicle of Mankins, with the center pole of Pogue as well as to reconfigure the vehicle mount of Mankins in a manner similar Pogue to join the display with the center pole.

The motivation for doing so would have been increased flexibility of the polygonal display due to its ability to be readily adapted to any pole structure (Pogue; col. 1, lines 31-36).

As to the additional limitations concerning where the polygonal display is located is not seen as a patentable limitation. It is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed structure. If the prior art structure is capable of performing the claimed use then it meets the claim. *In re Casey*, 152 USPQ 235, 238 (CCPA 1967); *In re Otto*, 136 USPQ 459 (CCPA 1963).

In the instant case, the combination of Mankins and Pogue is entirely capable of being located at the claimed location. As such the limitation requiring that the polygonal display be located, specifically, at a point-of-sale/purchase within a retail establishment is seen as immaterial to the question of patentability.

With respect to claim 2, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the visual advertising information includes at least one printed advertisement (col. 59, lines 23-27).

With respect to claim 7, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the support frame (1026, 1035, 1032 etc. in fig. 42) includes a plurality of angle brackets (1025 in fig. 42; col. 55, lines 56-58).

With respect to claim 8, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the support frame includes a plurality of wall members (each display panel 1036 is seated in a wall member; one for each side of the triangle).

With respect to claim 9, Mankins and Pogue disclose, the advertising display as set forth in claim 8 (see above).

Mankins further discloses, wherein the plurality of wall members each include a top flange portion located on the top of each of the plurality of wall members and a bottom flange portion located on the bottom of each of the plurality of wall members (note the flanges on 1023 in fig. 42; col. 55, lines 46-50)

With respect to claim 10, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, further including at least one attachment mechanism connected to the at least one electronic panel display and connected to the support frame (1035 in fig. 42).

With respect to claim 13, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the electronic advertising information for the at least one electronic display panel is digitally stored (the information is digitally cached locally in the device; col. 16, lines 58-67)

With respect to claim 14, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the source of the electronic advertising information for the at least one electronic display panel is from a global computer network (col. 4, lines 53-61).

With respect to claim 15, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, further including a plurality of the advertising displays connected to the source of electronic advertising information (clear from fig. 18), wherein the plurality of electronic advertising displays are positioned in a spaced apart relationship (clear from fig. 43).

With respect to claim 16, Mankins and Pogue disclose, the advertising display as set forth in claim 15 (see above).

Mankins further discloses, wherein the source of advertising information includes digitally stored advertising information provided to the plurality of advertising displays (clear from fig. 18), wherein the plurality of advertising displays (panel 1-8 in fig. 45) are operatively connected to at least one splitter (1042 in fig. 45), wherein the at least one

splitter is operatively connected to at least one video receiver (1035 in fig. 45), wherein the at least one video receiver is cooperatively connected to at least one video transmitter (176 in fig. 18), wherein the at least one video transmitter is operatively connected to at least one processor (350 in fig. 18) that utilizes the digitally stored advertising information.

With respect to claim 21, claim 21 is merely a method claim reciting the identical limitations of claim 1. Therefore claim 21 is rejected on the same merits shown above in claim 1.

With respect to claim 24, claim 24 is merely a method claim reciting the identical limitations of claim 15. Therefore claim 24 is rejected on the same merits shown above in claim 15.

With respect to claim 25, claim 25 is merely a method claim reciting the identical limitations of claim 16. Therefore claim 25 is rejected on the same merits shown above in claim 16.

9. Claims 17-18, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pogue (US 3,167,874) and further in view of Goldman (US 4,679,341).

With respect to claim 17, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, including an exterior shell (1402 in figs. 67-68), having at least one opening therein (1404 in fig. 72) and including printed advertisements in lieu of electronic displays.

Mankins does not expressly disclose at least one backing member.

Goldman discloses, a multiple panel advertising display including an exterior shell (11 in fig. 3), having at least one opening therein (18a-c in fig. 3) and positioned over at least one backing member (12 in fig. 3), wherein the at least one backing member is positioned adjacent to a support frame (40 in fig. 3) and the exterior shell and the at least one backing member are operatively connected together (fig. 4) to form a pocket for receiving a removable printed advertisement (27 in fig. 1) so that the printed advertisement can be viewed through the at least one opening in the exterior shell (clear from fig. 1).

Goldman, Pogue and Mankins are analogous art because they are both drawn to the same field of endeavor namely, design and construction of multi-panel advertising displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace one side of the triangular electronic display of Mankins and Pogue with a printed advertisement backing member as taught by Goldman.

The motivation for doing so would have been to lessen the complexity of the device as well as to lower the cost (Goldman; col. 1, lines 39-44).

With respect to claim 18, Mankins, Pogue and Goldman disclose, the advertising display as set forth in claim 17 (see above).

Mankins further discloses, wherein the exterior shell includes polymeric material (col. 55, lines 24-27).

Goldman further discloses, wherein the backing member includes polymeric material (col. 5, lines 60-64).

With respect to claim 20, Mankins, Pogue and Goldman disclose, the electronic advertising display as set forth in claim 17 (see above).

Goldman further discloses, wherein the at least one backing member (12 in fig. 3) is attached to a u-shaped frame (30-33 in fig. 3), wherein the u-shaped frame is attached to the exterior shell (clear from fig. 2) and wherein the backing member further includes at least one stop for limiting longitudinal movement of the exterior shell in relationship to the support frame (should be clear that 30, 33 and 36 in fig. 3 limit the movement of the exterior shell, 11).

With respect to claim 26, claim 26 is merely a method claim reciting the identical limitations of claim 17. Therefore claim 26 is rejected on the same merits show above in claim 17.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pogue (US 3,167,874) in view of Goldman (US 4,679,341) and further in view of Gebka (5,458,307).

With respect to claim 19, Mankins, Pogue and Goldman disclose, the advertising display as set forth in claim 18 (see above).

Neither Mankins, Pogue nor Goldman expressly discloses, wherein the polymeric material includes moderately expanded, rigid polyvinyl chloride material.

The use of rigid PVC as a structural material is seen as especially prevalent in the art. One such example is Gebka, which discloses the use of rigid PVC (col. 2, lines 27-29).

Gebka, Mankins, Pogue and Goldman are all analogous art because they are all from the same field of endeavor namely, multi-panel advertising displays.

At the time of the invention it would have been obvious to use the rigid pvc taught by Gebka in the construction of the plastic shell and backing member of Mankins, Pogue and Goldman.

The motivation for doing so would have been the prevalence of rigid pvc in the art as an encasement and structure material in addition to its water resistance.

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pogue (US 3,167,874) and further in view of Boland (US 1,537,523).

With respect to claim 28, Mankins and Pogue disclose, the advertising display as set forth in claim 1 (see above).

Neither Mankins nor Pogue expressly disclose, wherein the center pole is a pipe.

Boland discloses, a polygonal display (fig. 1) that is operatively connected to a center pole (10 in fig. 1) in a manner such that the polygon display can be supported by and from the center pole solely via a single mount (12 in fig. 1), wherein the center pole is a pipe (page 1, lines 62-75).

Boland, Pogue and Mankins are analogous art because they are both from the same field of endeavor namely polygonal displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the center pole of Mankins and Pogue with the pipe of Boland.

The motivation for doing so would have been a simpler construction of the device, lessened weight of the support mechanism, and finally the allowance to run any power / data cables for the device through the pipe, giving a more aesthetic appeal to the overall display.


Conclusion

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Will L. Boddie whose telephone number is (571) 272-0666. The Examiner can normally be reached on Monday - Friday, 7:30 - 4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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